



# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** May 19, 2009

**TO:** Mayor and Councilmembers

**FROM:** Planning Division, Community Development Department

**SUBJECT:** Appeal Of The Single Family Design Board Approval Of 3455 Marina Drive

### **RECOMMENDATION:**

That Council deny the appeal of Ronald Green, Kitch Wilson, Michael Moore, and Donald Santee and uphold the Single Family Design Board final approval for the proposed single-family residence and associated development at 3455 Marina Drive.

### **DISCUSSION:**

#### Project Description

The final revised project consists of the construction of a 4,698 square foot one-story, single-family residence, including a 574-square-foot, three-car attached garage on a vacant lot. The project includes a swimming pool, patio, a 26-square-foot half-bath structure, septic system, site walls, synthetic putting green, pool equipment enclosure, and landscaping with a view corridor along the eastern side of the property. Total grading would be 1,151 cubic yards to be balanced on site. The lot has street frontage on Marina Drive to the north and Cliff Drive to the south, with access to the house from Marina Drive. The lot is reduced from 1.34 to 1.2 acres by a public right-of-way easement along Cliff Drive. The southern portion of the development is located within the Appealable Jurisdiction of the Coastal Zone.

#### Appeal

On February 9, 2009 the Single Family Design Board granted Final Approval of the proposed new residence. Four neighbors have filed an appeal and request that Council deny the project (Attachment 1), asserting that the proposed landscape plan for the residence should not have been approved because:

- It fails to comply with the Single Family Design Board's condition of preliminary approval to limit plant heights within the view corridor.
- It could result in a reduction of the width of the view corridor because "minor encroachment" is not clearly defined.
- All restrictions on the view corridor must be maintained by future owners of the property.

### Project History

The project required discretionary approvals of a Coastal Development Permit and design review. It was reviewed twice by the Architectural Board of Review for comments prior to the inception of the Single Family Design Board. A revised, lower and smaller project was reviewed by the Planning Commission. At the second Planning Commission hearing, with further reductions in size and a 30-foot view corridor along the eastern side of the property, a Coastal Development Permit was approved. This approval was upheld on appeal by the City Council on August 5, 2008 (Attachment 2). Council's approval was appealed to the California Coastal Commission, which considered the appeal on October 17, 2008, and found that no substantial issue existed with respect to the grounds on which the appeal was filed.

The project continued for design review approval to the Single Family Design Board with direction from Council that the landscape plan be reviewed with the intent of affording and maintaining a clear view of the ocean to pedestrians along Marina Drive with appropriate limits on the height of the landscaping. The Single Family Design Board granted preliminary approval making Neighborhood Preservation Ordinance findings (SBMC §22.69.050) at their first review on September 2, 2008, and gave direction that the landscaping in the 30-foot view corridor shall be between 3 and 4 feet finished height for the north half of the corridor, and 5 to 6 feet finished height for remaining portion, that landscaping should appear natural, and that minor encroachment of the tree canopies is not a detriment. On February 9, 2009, the Single Family Design Board granted final approval on the Consent Calendar with a condition to change two plants in order to comply with the height condition of preliminary approval (Attachment 3). On February 26, 2009, an appeal of the Single Family Design Board's final approval was filed.

### Appeal issues

The appellants' position is that the Single Family Design Board's final approval is not consistent with their preliminary approval with regard to plant heights within the view corridor. The landscape plan that received final approval shows several plant species that, at mature height, can exceed the condition of preliminary approval that "landscaping in the 30 foot view corridor at the eastern property line shall be between 3 and 4 feet finished height for the north half of the corridor, and 5 to 6 feet finished height for the remaining portion."

The issue is whether the height limits on landscaping in the view corridor specified by the Single Family Design Board must be strictly adhered to, or whether those heights are intended as guidelines. Staff's position is that they are intended to be guidelines for plant selection for the landscape plan and for standard maintenance, not strict, measured limits. The intention is to create an aesthetically pleasing landscape design with a natural appearance, while providing a view corridor. While it is true that maximum heights of some of the selected plant species may slightly exceed the specified 3-4 foot and 5-6 foot heights, other species in the view corridor will be lower,

to achieve a varied, natural appearance. The appellants cite the Sunset Western Garden Book, while the project landscape architect cited the San Marcos Growers Nursery website. Both are highly reputable sources for plant information. Where there are discrepancies between these two sources, Sunset Western calls out higher mature plant sizes.

The appellants believe that the Single Family Design Board's final approval is not consistent with condition B.1 in Planning Commission Resolution 017-08 as amended by Council that the project "shall provide and maintain a view corridor at least 30 feet in width measured perpendicularly from the interior lot lines" (Attachment 2). The preliminary approval granted by the Single Family Design Board included a condition allowing undefined minor encroachments into the view corridor. Without a clear definition of "minor encroachment," the result could be a view corridor less than the required 30 feet in width.

Staff believes that the Single Family Design Board intended for the view corridor to have a natural appearance, as expressed in their condition of preliminary approval that "landscaping in the view corridor should appear natural and minor encroachment of tree canopies is not a detriment" (Attachment 3). Trees between the house and the view corridor soften the view of the house and add to the natural appearance of the view corridor. The extent of encroachment is defined to the degree that tree species and locations are specified on the approved landscape plan.

The appellants are concerned about maintenance by future owners of the property. The Covenants, Conditions and Restrictions that run with the property already address this issue with item 1, c., which states: "The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan" (Attachment 4).

## **RECOMMENDATION:**

Staff believes that the Single Family Design Board considered the conditions given by the Planning Commission and City Council on appeal when they established parameters for the view corridor and granted preliminary approval. Staff also believes that the final approval is consistent with the preliminary approval and provides the required view corridor, and that the project complies with the Neighborhood Preservation Ordinance. Staff recommends Council deny the appeal and uphold the decision of the Single Family Design Board, making the Neighborhood Preservation Ordinance findings outlined below.

### Neighborhood Preservation Ordinance Findings (SBMC §22.69.050)

1. **Consistency and Appearance.** The proposed development is consistent with the scenic character of the City and will enhance the appearance of the neighborhood by proposing an architectural style consistent with the area and the City.

2. **Compatibility.** The proposed one-story development with low finished floor height is compatible with the neighborhood, and its size, bulk, and scale are appropriate to the site and neighborhood.
3. **Quality Architecture and Materials.** The proposed residence is designed with quality architectural details. The proposed materials and colors are appropriate for the neighborhood.
4. **Trees.** The proposed project does not include the removal of, or significantly impact, any designated Specimen Tree, Historic Tree or Landmark Tree, or any other trees.
5. **Health, Safety, and Welfare.** The public health, safety, and welfare are appropriately protected and preserved.
6. **Good Neighbor Guidelines.** The project generally complies with the Good Neighbor Guidelines regarding privacy, landscaping, noise and lighting. The structure is generously set back from the property lines. The structure, landscaping, and walls are sensitive to neighbors' views.
7. **Public Views.** The development, with its one-story massing and proposed view corridor, preserves significant public scenic views of and from the hillside.

**NOTE:** The landscape plan has been separately delivered to the City Council for their review and is available for public review in the City Clerk's Office.

**ATTACHMENTS:**

1. Appellant's letter received February 26, 2009
2. City Council minutes of August 5, 2008
3. Single Family Design Board minutes of September 2, 2008 and February 9, 2009
4. Covenants, Conditions, and Restrictions

**PREPARED BY:** Tony Boughman, Planning Technician II

**SUBMITTED BY:** Paul Casey, Community Development Director.

**APPROVED BY:** City Administrator's Office

## ATTACHMENT I

To: Santa Barbara City Council

Subject: 3455 Marina Drive

FEB 26 2009  
1:12 PM BA  
CITY CLERK'S OFFICE  
SANTA BARBARA, CA

We are appealing the final approval of 3455 Marina Dr. by the Single Family Design Board dated February 17, 2009 to the Santa Barbara City Council.

### Reasons for appeal:

The approved landscape design for the 30 foot view corridor at the eastern property line is not in compliance with Planning Commission Resolution 017-08 dated May 8, 2008. Planning Commission Resolution 017-08 states "The project shall provide and maintain a view corridor at least 30 feet in width measured perpendicularly from the interior lot lines." However, the approval of the Single Family Design Board dated February 17, 2009, permits undefined minor encroachments into the view corridor. Since minor encroachment is not defined, this could result in reduction of the width of the view corridor in direct violation of Planning Commission Resolution 017-08.

Planning Commission Resolution 017-08 states that the landscaping plan for the project "shall afford and maintain a clear view of the ocean to pedestrians along Marina Drive by maintaining appropriate limits on the height of all approved landscaping." Single Family Design Board Minutes dated September 2, 2008, state that landscaping in the 30 foot view corridor at the eastern property line shall be between 3 and 4 feet finished height for the north half of the corridor, and 5 to 6 feet finished height for the remaining portion. Analysis of the landscape plan by Kenneth Knight, Certified Municipal Specialist Arborist identifies multiple plants in the view corridor which would exceed the specified height limits. Reference is the Sunset Western Garden Book, eighth edition, unless otherwise noted. See attachments.

We therefore request that the City Council bring this development into compliance with Planning Commission Resolution 017-08 and the height limitations imposed by the Single Family Design Board by eliminating any encroachment into the View Corridor and eliminating all specified plants in the view corridor which exceed the height limitations when fully grown.

The 3400 block of Marina Drive is an active pedestrian and equestrian path with a scenic ocean view, officially recognized by City Council Resolution 90-035. We are respectfully requesting that the City Council preserve and protect this valued neighborhood amenity. In order to maintain the view corridor as stated in Planning Commission Resolution 017-08, it is critical that the restrictions on the view corridor be entered in the deed to the property so that the view corridor must be maintained by future owners of the property.

Don Santee	Ronald Green	Michael Moore	Kitch Wilson
421 Calle Las Caleras	3424 Marina Dr.	414 Sea Ranch Rd.	415 Calle Las Caleras
S.B. CA 93109	S.B. CA 93110	S.B. CA 93109	S.B. CA 93109
805-682-2720	805-687-7150	805-569-2140	805-682-7247

the continued maintenance thereof in a manner that will preclude any hazard to life, health or damage to the Real Property or any adjoining property.

2. **Recreational Vehicle Storage Limitation.** No recreational vehicles, boats or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
3. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided, and maintained in accordance with said landscape plan.
4. **Lighting.** Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance and most currently adopted Energy Code. No floodlights shall be allowed. Exterior lighting shall be shielded and directed toward the ground.
- \* 5. **Approved Development.** The development of the Real Property approved by the Planning Commission on May 8, 2008, is limited to approximately 5,390 square feet of building and the improvements shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara. The project shall provide and maintain a view corridor at least 30 feet in width measured perpendicularly from the interior lot lines. The landscaping plan for the project shall afford and maintain a clear view of the ocean to pedestrians along Marina Drive in a manner acceptable to the Single Family Design Board by maintaining appropriate limits on the height of all approved landscaping. Structures, walls, and plants shall be installed and maintained consistent with the approved landscape plan within the view corridor. Trees are prohibited in the view corridor.
6. **Cliff Drive Sewer Connection Requirement.** As a condition of approval of this project, Owner agrees to connect to the City sewer system when a sewer main is constructed in Cliff Drive at a point adjacent to Owner's Real Property, per Santa Barbara Municipal Code Chapter 14.44. Owner shall, at Owner's sole expense, connect to the City sewer system within one year of being advised in writing that the City sewer main is operable and available for such a connection. If connected to City sewer, a sewer discharge outlet shall be provided for drainage of the swimming pool. In the event Owner fails to comply with this condition of approval, City may enter the Real Property and make such a sewer connection with the cost of the connection becoming a lien on the real property to be paid in connection with property taxes and assessments imposed on Owner's Real Property.
7. **Swimming Pool Discharge.** In the event the pool is completely or partially drained, the owner shall truck out any water discharged from the swimming pool and properly dispose of the water to the sanitary sewer system. No water from

**PRELIMINARY REVIEW****6. 3455 MARINA DR****A-1/SD-3 Zone**

Assessor's Parcel Number: 047-022-004

Application Number: MST2007-00221

Owner: Silva Family Trust

Architect: Bryan Pollard

Landscape Architect: Sam Maphis

(Revised proposal to construct a 5,390 square foot one-story single-family residence including a 574 square foot three-car attached garage. The project includes a swimming pool, patio, a 27 square foot half-bath structure, septic system, site walls, fencing, synthetic putting green, solar panels, and landscaping. The project is located on a 1.2 acre lot in the Coastal Zone. The proposed total of 5,390 square feet is 102% of the maximum guideline FAR.)

(Project requires compliance with Planning Commission Resolution No. 017-08.)

Time: 6:45

Present: Bryan Pollard, Architect; Sam Maphis, Landscape Architect; Mike Silva, Owner.

Public comment opened at 7:09 p.m.

1. Don Santee for Kitch Wilson: would like to see the size reduced to the average FAR in neighborhood of 77%; prefers plantings and structures in view corridor restricted to less than 3 feet from ground; reduce ridge height to 17 feet.
2. Don Santee: project is noncompliant with Local Coastal Plan Policy (LCP) 5.3 and 9.1; prefers preserving view corridors; guidelines should be followed.
3. Ronald Green: project is under jurisdiction of LCP policies, and should be compatible with homes in the neighborhood and should protect ocean views.
4. Art Schwartz: concerned about night glow from exterior lighting and requested installation of shielded, low sodium lights.
5. Susan Zalon: concerned that other projects are held to FARs below 100% and this project should too; prefers attractive, low-growing ground covers instead of the hedge along the east property line.

Public comment closed at 7:22 p.m.

**Motion: Preliminary Approval and continued to the Full Board for an in-progress review of the architecture and for landscaping plan:**

- 1) Landscaping in the 30 foot view corridor at the eastern property line shall be between 3 and 4 feet finished height for the north half of the corridor, and 5 to 6 feet finished height for remaining portion.
- 2) Provide a section/drawing from Marina Drive to Cliff Drive with a variety of landscaping with mature height shown, include a silhouette of the structure.
- 3) Landscaping in the view corridor should appear natural and minor encroachment of the of tree canopies is not a detriment. Minimize the encroachment of the dwarf citrus tree canopies into the view corridor.
- 4) Study opportunities to reduce excess unused space and some very large rooms; any effort in reduction would be appreciated.

3455 Marina Dr.

Landscaping in the 30 foot view corridor at the eastern property line exceeding 3' to 4' finished height on north half of the corridor

Genus	Species	Cultivar	Max. Height	Comments
Rosmarinus	officinalis	Tuscan Blue	6'-7'	Smaller species available
Aloe	unknown			Some aloes grow 10' or taller-identify species
Pittosporum	crassifolia	Nana'	3'+	Not readily available- similar to 'compactum'?
Solanum	jasmnoides		30'	Vine becomes woody and taller over time, requires ongoing pruning
Nandina	varieties		6'-8'	Identify cultivar- Smaller cultivars available
Ceanothus		Joan Mirov	6'	Yerba Buena Nursery description
Ceanothus		Joyce Coulter	2'-5'	
Berry vines	unknown			Unknown height
Raised Planter Beds	unknown			Unknown height of plants in planting beds

Landscaping in the 30 foot view corridor at the eastern property line exceeding 5' to 6' finished height on south half of the corridor

Genus	Species	Cultivar	Max. Height	Comments
Coprosma	repens	marginata	2'-3' or 10'	Variable height at maturity, may require pruning
Passiflora	vitifolia		20'-30'	Vine becomes woody and taller over time, requires ongoing pruning
Rhus	integrifolia		3'-10', to 30'	Shrub becomes woody and taller over time, requires ongoing pruning
Ficus	repens		30'	Shrub/Tree becomes woody and taller over time, requires ongoing pruning

**Kenneth A. Knight**

Certified Municipal Specialist Arborist WE 6394MA

Certified Urban Forester 126

69 Calaveras Avenue Goleta, CA 93117

H (805) 968-8523 W (805) 252-1952 HYPERLINK "mailto:kennknight@aol.com" kennknight@aol.com

January 25, 2009



## PUBLIC HEARINGS

20. Subject: Appeal Of Planning Commission Approval Of 3455 Marina Drive (640.07)

Recommendation: That Council deny the appeals of Ronald Green, Kitch and Eva Wilson, and Michael Moore, and uphold the Planning Commission approval of the Coastal Development Permit for the single family residence and associated development at 3455 Marina Drive.

Documents:

- August 5, 2008, report from the Community Development Director.
- Affidavit of Publication.
- August 5, 2008, petition and map submitted by Ronald Green.
- August 1, 2008, letter from Sandra Schoolfield and Jon Kechejian.

Public Comment Opened:

3:35 p.m.

Speakers:

- Staff: Planning Technician Tony Boughman, City Planner Bettie Weiss, Senior Planner Jaime Limon, City Attorney Stephen Wiley.
- Planning Commission: Commissioner John Jostes.
- Architectural Board of Review: Board Member Paul Zink.
- Appellants: Kitch Wilson, Ronald Green.
- Applicant: Michael Silva, Sam Mathis, Steve Amerikaner.

Recess: 4:46 p.m. - 4:56 p.m.

Speakers (Cont'd):

Members of the Public: Beverly McCurdy, Don Santee, Susan Zalon, Hilary Santee, and James Higman.

Public Comment Closed:

5:08 p.m.

Motion:

Councilmembers Williams/Schneider to deny the appeal and amend the Conditions of Approval as follows:

1. Second sentence in Condition B.1 will be amended and repeated in Condition A.5 as follows:

The landscaping plan for the project shall be reviewed with the intent of affording and maintaining a clear view of the ocean to pedestrians along Marina Drive in a manner acceptable to the Single Family Design Board by maintaining appropriate limits on the height of all approved landscaping; and

2. Last sentence in Condition B.1 will remain in Conditions of Approval.

Vote:

Unanimous voice vote (Absent: Councilmember Falcone, House).

**PRELIMINARY REVIEW****6. 3455 MARINA DR****A-1/SD-3 Zone**

Assessor's Parcel Number: 047-022-004  
 Application Number: MST2007-00221  
 Owner: Silva Family Trust  
 Architect: Bryan Pollard  
 Landscape Architect: Sam Maphis

(Revised proposal to construct a 5,390 square foot one-story single-family residence including a 574 square foot three-car attached garage. The project includes a swimming pool, patio, a 27 square foot half-bath structure, septic system, site walls, fencing, synthetic putting green, solar panels, and landscaping. The project is located on a 1.2 acre lot in the Coastal Zone. The proposed total of 5,390 square feet is 102% of the maximum guideline FAR.)

**(Project requires compliance with Planning Commission Resolution No. 017-08.)**

Time: 6:45

Present: Bryan Pollard, Architect; Sam Maphis, Landscape Architect; Mike Silva, Owner.

Public comment opened at 7:09 p.m.

1. Don Santee for Kitch Wilson: would like to see the size reduced to the average FAR in neighborhood of 77%; prefers plantings and structures in view corridor restricted to less than 3 feet from ground; reduce ridge height to 17 feet.
2. Don Santee: project is noncompliant with Local Coastal Plan Policy (LCP) 5.3 and 9.1; prefers preserving view corridors; guidelines should be followed.
3. Ronald Green: project is under jurisdiction of LCP policies, and should be compatible with homes in the neighborhood and should protect ocean views.
4. Art Schwartz: concerned about night glow from exterior lighting and requested installation of shielded, low sodium lights.
5. Susan Zalon: concerned that other projects are held to FARs below 100% and this project should too; prefers attractive, low-growing ground covers instead of the hedge along the east property line.

Public comment closed at 7:22 p.m.

**Motion: Preliminary Approval and continued to the Full Board for an in-progress review of the architecture and for landscaping plan:**

- 1) Landscaping in the 30 foot view corridor at the eastern property line shall be between 3 and 4 feet finished height for the north half of the corridor, and 5 to 6 feet finished height for remaining portion.
- 2) Provide a section/drawing from Marina Drive to Cliff Drive with a variety of landscaping with mature height shown, include a silhouette of the structure.
- 3) Landscaping in the view corridor should appear natural and minor encroachment of the of tree canopies is not a detriment. Minimize the encroachment of the dwarf citrus tree canopies into the view corridor.
- 4) Study opportunities to reduce excess unused space and some very large rooms; any effort in reduction would be appreciated.
- 5) Provide additional details; preliminary colors are a good direction.
- 6) The architectural style and size are compatible with the neighborhood, the project provides quality materials.

Action: Woolery/Carroll, 4/0/0. Motion carried. (Bernstein, Mahan, Mosel absent.)

The ten-day appeal period was announced.

**NEW ITEM****E. 352 CONEJO RD****A-1 Zone**

Assessor's Parcel Number: 019-061-030  
Application Number: MST2009-00042  
Owner: Tim McCollum  
Architect: John Kincade  
Contractor: Donald Leitch

(Proposal to replace a 1,296 square foot single-family residence and attached 342 square foot two-car garage and 410 square foot deck destroyed in the Tea Fire. The project includes increasing the house to 1,500 square feet and garage to 400 square feet with total additions on all sides to be 250 square feet. Also proposed is an understory of approximately 250 square feet. The existing development was nonconforming to all setbacks and open yard requirements. Staff Hearing Officer approval is requested for modifications to allow encroachment into the front and interior setbacks, and to provide less than the required open yard area. The project is located on a 7,900 square foot lot in the Hillside Design District. The proposed total of approximately 2,150 square feet is 68% of the maximum floor to lot area ratio.)

**(Comments only; project requires environmental assessment and Staff Hearing Officer approval of Modifications.)**

Continued indefinitely to the Staff Hearing Officer with comments: 1) The Modification for a deck located over the property line or in the interior setback is not supportable. 2) The other Modification requests are supportable.

**FINAL REVIEW****F. 3455 MARINA DR****A-1/SD-3 Zone**

Assessor's Parcel Number: 047-022-004  
Application Number: MST2007-00221  
Owner: Silva Family Trust  
Architect: Bryan Pollard  
Landscape Architect: Sam Maphis

(Revised proposal to construct a 5,390 square foot one-story single-family residence including a 574 square foot three-car attached garage. The project includes a swimming pool, patio, a 27 square foot half-bath structure, septic system, site walls, fencing, synthetic putting green, solar panels, and landscaping. The project is located on a 1.2 acre lot in the Coastal Zone. The proposed total of 5,390 square feet is 102% of the maximum guideline FAR.)

**(Final review of architecture and landscaping.)**

Final Approval with conditions: 1) Move the small window away from the faux chimney. 2) Color of windows to be Santa Barbara blue. 3) Change the two Ceanothus from Snow Flurry to Concha as noted on the landscape plan. 4) Include Water Compliance Statement on irrigation plans and show that irrigation complies.

RECORDING REQUESTED BY )  
 AND WHEN RECORDED MAIL TO: )  
 )  
 City of Santa Barbara )  
 City Clerk, City Hall )  
 P.O. Box 1990 )  
 Santa Barbara, CA 93102 )

SPACE ABOVE FOR RECORDER'S USE

ADDRESS: 3455 Marina Drive

NO FEE PER GOV. CODE 6103

A.P.N.: 047-022-004

DECLARATION OF COVENANTS, CONDITIONS AND  
 RESTRICTIONS IMPOSED ON REAL PROPERTY

THIS DECLARATION of covenants, conditions and restrictions is made for the benefit of the City of Santa Barbara (hereinafter "City") and the owners and occupants of other parcels of Real Property in the immediate vicinity of the Real Property, by \_\_\_\_\_ (hereinafter "Owner"), as of this \_\_\_\_\_ day of \_\_\_\_\_, 200

RECITALS

1. Whereas, Owner is the owner of certain Real Property described in Exhibit A, attached hereto, incorporated herein by this reference and herein referred to as the "Real Property."

2. Whereas, Owner sought a discretionary development approval for the Real Property from City's Planning Commission.

3. Whereas, an application of Mike Silva, owner of 3455 Marina Drive, APN 047-022-004, A-1/SD-3, Single Family Residence and Coastal Overlay zones, and General Plan Designation: Residential, 1 Unit per Acre (MST2007-00221) was filed with the City. The proposed project involves construction of a 5,390 square foot one-story single-family residence including a 574 square foot three-car attached garage. The project includes a swimming pool, patio, a 27 square foot half-bath structure, septic system, site walls, synthetic putting green, and landscaping. The lot has street frontage on Marina Drive to the north and Cliff Drive to the south. The vacant lot is reduced from 1.34 to 1.2 acres by a public right-of-way easement along Cliff Drive. The southern portion of the development is located within the Appealable Jurisdiction of the Coastal Zone. The discretionary application required for this project is a Coastal Development Permit to allow the proposed development in the appealable jurisdiction of the Coastal Zone (SBMC § 28.44.050).

4. Whereas, on May 8, 2008 the Planning Commission approved the project; on August 5, 2008 the City Council approved the project on appeal; and on October 17, 2008 the California Coastal Commission, on appeal, granted Owner an approval subject to certain conditions which were imposed for the benefit of the public. Some of those conditions were required to be set forth in a recorded document, which runs with the

Real Property and imposes those conditions on the Real Property.

### COVENANTS, CONDITIONS AND RESTRICTIONS

I. In consideration of the issuance of said approval and the benefit conferred thereby on the Real Property, Owner hereby covenants and agrees with the City to impose the following terms, covenants, conditions, restrictions and limitations upon the possession, use and enjoyment of the Real Property:

- a. The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural water courses, conduits and any access road, as appropriate. The Owner is responsible for the adequacy of any *project related* drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health or damage to the Real Property or any adjoining property.
- b. No recreational vehicles, boats or trailers shall be stored on the Real Property unless enclosed or concealed from view as approved by the Single Family Design Board (SFDB).
- c. The Owner shall comply with the Landscape Plan approved by the Single Family Design Board (SFDB). Such plan shall not be modified unless prior written approval is obtained from the SFDB. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan.
- d. Exterior lighting, where provided, shall be consistent with the City's Lighting Ordinance and most currently adopted Energy Code. No floodlights shall be allowed. Exterior lighting shall be shielded and directed toward the ground.
- e. The development of the Real Property approved by the Planning Commission on May 8, 2008, is limited to approximately 5,390 square feet of building and the improvements shown on the plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara. The project shall provide and maintain a view corridor at least 30 feet in width measured perpendicularly from the interior lot lines. The landscaping plan for the project shall afford and maintain a clear view of the ocean to pedestrians along Marina Drive in a manner acceptable to the Single Family Design Board by maintaining appropriate limits on the height of all approved landscaping. Structures, walls, and plants shall be installed and maintained consistent with the approved landscape plan within the view corridor. Trees are prohibited in the view corridor.
- f. As a condition of approval of this project, Owner agrees to connect to the City sewer system when a sewer main is constructed in Cliff Drive at a point adjacent to Owner's Real Property, per Santa Barbara Municipal Code Chapter 14.44. Owner shall, at Owner's sole expense, connect to the City sewer system within one year of being advised in writing that the City sewer main is operable and available for such a connection. If connected to City sewer, a sewer discharge outlet shall be provided for drainage of the swimming pool. In the event Owner fails to comply with this condition of approval, City may enter the Real Property and make such a sewer connection with the cost of the connection becoming a lien on the real property to be paid in connection with property taxes and assessments imposed on Owner's Real Property.
- g. In the event the pool is completely or partially drained, the owner shall truck out any water discharged from the swimming pool and properly dispose of the water to the sanitary sewer



system. No water from the pool shall be discharged into a City storm drain or to the private septic system on the real property, as identified in SBMC §16.15.

- h. The property owner waives the right to object to the formation of an assessment district for the maintenance of stormwater improvements and agrees to participate in the assessment district upon its formation.

II. Owner hereby declares that the Real Property is held and hereafter shall only be held, conveyed, hypothecated, encumbered, leased, rented, used, and occupied subject to the above referenced covenants, conditions, restrictions and limitations, all of which are declared and agreed to be in furtherance of Owner's interest. All of the above stated covenants, conditions, restrictions and limitations are intended to constitute both equitable servitudes and covenants running with the land.

III. Any purchaser of the Real Property, by the acceptance of a deed therefore, whether from Owner or from any subsequent owner of the Real Property, or by the signing of a contract or agreement to purchase the same, shall, by the acceptance of such deed or by the signing of such contract or agreement, be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein.

IV. This Declaration runs with the Real Property and shall be binding upon the successors and assigns of Owner and the heirs, personal representatives, grantees, lessees, sub lessees, contract purchasers, and assignees of Owner and any subsequent owner of the Real Property.

V. It is further agreed that these covenants, conditions, and restrictions may not be amended or canceled in whole or in part without the prior written recorded approval of the City of Santa Barbara.

IN WITNESS WHEREOF, Owner has executed this Declaration on the day and year first above written.

APPROVED AS TO CONTENT:  
Paul Casey  
Community Development Director

OWNER (See instructions below)

By \_\_\_\_\_

APPROVED AS TO CONTENT:  
Christine Andersen  
Public Works Director

\_\_\_\_\_  
Street Address or Post Office Box

By \_\_\_\_\_

\_\_\_\_\_  
City, State and Zip Code

APPROVED AS TO FORM:  
N. Scott Vincent  
Assistant City Attorney

( ) \_\_\_\_\_  
Telephone

By \_\_\_\_\_